

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

David E. Mattina

Case No. 99-02520

Names of Respondents

Gates Carter Levi, Inc.
Joel M. Levi

REPRESENTATION OF PARTIES

For Claimant: Earl S. Eichin, Jr., Esq. of Lemle & Kelleher, New Orleans, LA.

For Respondents: Dempsey M. Levy, Esq., Ocean Springs, MS.

CASE INFORMATION

Statement of Claim filed on or about: June 1, 1999.

Claimant signed the Uniform Submission Agreement: May 27, 1999.

Joint Statement of Answer filed by Respondents on or about: September 2, 1999.

Respondent Joel M. Levi ("Levi") signed the Uniform Submission Agreement: August 31, 1999.

Respondent Gates Carter Levi, Inc. ("GCL") did not file an executed Uniform Submission Agreement (see "Other Issues").

CASE SUMMARY

Claimant alleged the following: Respondents made inappropriate, unsuitable, and unauthorized investments contrary to Claimant's instructions that his money be conservatively invested. Respondents' acts, practices, misrepresentations, omissions, misstatements, and course of dealing and conduct constitute violations of the Securities Exchange Act of 1934, the Mississippi and Louisiana Blue Sky Laws, the rules and regulations of the New York Stock Exchange, and the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and alleged the following: Claimant's allegation that his investment objective was to conservatively invest \$300,000.00 with GCL is contrary to his application with GCL. Claimant completed an option agreement, designated Level 5 trading, then

signed and dated the agreement. Claimant was aware of all transactions made in his account. Claimant traded options for three years. In the third year, he incurred a loss and filed a claim against Respondents. The claim has no merit. Claimant directed GCL to invest money in the market and ultimately lost money. Respondents invested Claimant's money in accordance with his directions.

RELIEF REQUESTED

Claimant requested damages of \$172,733.28 representing the trading losses, additional damages in an amount equal to the difference between the net value of his account as of March 21, 1996 and the value his account should and would be today if the funds had been properly and prudently invested, the excessive commissions paid to GCL, the margin interest paid to GCL, interest, attorneys' fees, costs, and such other relief as the Panel deemed appropriate.

Respondents requested a dismissal of the Statement of Claim and that all costs be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent GCL did not file with the NASD Regulation, Inc., Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Levi is liable and shall pay to the Claimant compensatory damages in the sum of \$50,000.00.

All claims against GCL are dismissed.

Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, GCL was a terminated member prior to the commencement of this action.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1125.00	= \$1125.00
Pre-hearing conference: January 18, 2000 1 session	
Three (3) Hearing sessions x \$1125.00	= \$3375.00
Hearing Date(s): May 4, 2000 2 sessions	
May 5, 2000 1 session	
Total Forum Fees	= \$4500.00

The Panel has assessed \$2025.00 of the forum fees to Claimant.

The Panel has assessed \$2475.00 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$2025.00
Total Fees	= \$2325.00
<u>Less payments</u>	= \$1425.00
Balance Due NASD Regulation, Inc.	= \$ 900.00

Respondents GCL and Levi be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$2475.00
Total Fees	= \$2475.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Regulation, Inc.	= \$2475.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/

Glenda Maria August, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Herman Brasseaux
Public Arbitrator

Signature Date

/s/

Charles A. Bosworth, III
Industry Arbitrator

Signature Date

June 9, 2000

Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

Glenda M. August
Glenda Maria August, Esq.
Public Arbitrator, Presiding Chair

6/6/00
Signature Date

Herman Brasseaux
Public Arbitrator

Signature Date

Charles A. Bosworth, III
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

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NASD REGULATION, INC. Office of Dispute Resolution

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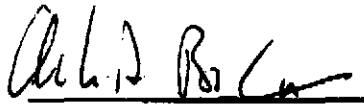
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